

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6326

BILL NUMBER: SB 127

NOTE PREPARED: Dec 6, 2012

BILL AMENDED:

SUBJECT: Arrests and Searches by Federal Employees.

FIRST AUTHOR: Sen. Kruse

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Federal Law Enforcement Arrest, Search, or Seizure By Permission-* The bill provides that a federal employee who is not designated by state law to act as a state law enforcement officer may not make an arrest, a search, or a seizure in Indiana without the written permission of the sheriff or the designee of the sheriff who has jurisdiction in the county in which the arrest, search, or seizure will occur. The bill provides certain exceptions.

Federal Arrests, Searches, and Seizures Without Permission- The bill provides that if an arrest, a search, or a seizure is made without the sheriff's written permission, the federal employee must be prosecuted under Indiana law and charged with an offense appropriate to the circumstances.

Federal Law Not Recognized by Indiana- The bill provides that under the Tenth Amendment of the Constitution of the United States and Indiana's compact with the other states, the General Assembly declares that any federal law that purports to provide federal employees with the authority of a sheriff in Indiana is not recognized by and is specifically rejected by the state of Indiana and is invalid in Indiana. The bill makes conforming amendments.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Federal Law Enforcement Arrest, Search, or Seizure By Permission-* The Indiana Attorney General (IAG) may incur additional administrative expense in order to maintain records of permission given to various federal law enforcement agencies to conduct certain arrests, searches, or seizures.

Federal Arrests, Searches, and Seizures Without Permission- The IAG would be required to prosecute county prosecutors that fail to prosecute an unlawful arrest, search, or seizure made by a federal agent.

The IAG would likely be able to comply with both these provisions within existing resources.

Department of Correction- If federal agents were convicted of a felony offense under the bill, Department of Correction (DOC) costs would increase to house the offenders. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, given the law enforcement background of a federal agent committed to a DOC facility, the DOC may have to house those individuals in a separate area away from the general population for their protection. The possibility of housing in isolation may slightly increase overall incarceration costs. It is likely, any agents seeing jail time would be placed in a minimal security facility, which could mitigate the need to isolate the agent from the general population.

Background Information, Federal Arrests Data- The following table illustrates a five-year history on the number of federal arrests in Indiana's two federal judicial districts. (Federal Fiscal Year 2010 is the most recent year available.)

Table A. Arrests in Indiana Federal Judicial Districts (FFY 2006-2010)	
Federal Fiscal Year	Total Persons Arrested and Booked
2010	1,138
2009	1,095
2008	1,077
2007	1,020
2006	1,132
TOTAL	5,462
Average (5-Year)	1,092

With respect to seizures, federal agents seized 3.5 million lbs. of illegal drugs in the United States during FFY 2008. If 2% of that amount were attributed to Indiana, Indiana's share of federal drug seizures would have been approximately 70,000 lbs. Data on weapons and other types of seizures are currently unknown. No available data on searches has been located at present.

NFA Weapons- Federal agents typically enforce the national firearms act (NFA) and regulate federal firearms licenses (FFL). There were 80,736 registered NFA weapons in Indiana as of March 2012. The following table provides a breakdown by the major weapon types that require registration with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives and the number of registrations within Indiana.

Table B. National Firearms Act Registered Weapons in Indiana (March 2012)	
Weapon Type	Number Registered
Destructive Device	34,628
Machinegun	17,019
Silencer	16,735
Short-Barreled Rifle	2,343
Short-Barreled Shotgun	8,581
Any other NFA weapon not otherwise classified	1,430
TOTAL	80,736

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Federal Law Enforcement Arrest, Search, or Seizure By Permission-* Similar to the IAG, county sheriffs would have to maintain records for written permission granted to federal law enforcement agencies to conduct arrests, searches, and seizures.

Federal Arrests, Searches, and Seizures Without Permission- County prosecutors would be required to prosecute any federal agent that commits an arrest, search, or seizure in violation of state statute. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Federal Arrests, Searches, and Seizures Without Permission-* If additional court actions occur, as a result of the bill, and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Attorney General, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, county sheriffs, county prosecutors.

Information Sources: U.S. Marshals Service, U.S.M.S. Prisoner Tracking System, via the U.S. Bureau of Justice Statistics; U.S. Drug Enforcement Administration, via *The U.S. Statistical Abstract 2010 Addition*; U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives: *Firearms Commerce in the United States-Annual Statistical Update 2012*.

Fiscal Analyst: Chris Baker, 317-232-9851.